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A slight sketch of the
history of registration.

Abstract from:

Second Annual
Report to the General Assembly
of Kentucky relating to the
Registry and Returns of Births,
Marriages, and Deaths from
January 1. 1853 to December 31. 1853

Frankfort 1854. Appendix
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APPENDIX.



A SLIGHT SKETCH OF THE HISTORY OF REGISTRATION.

When the first annual report of births, marriages, and deaths for Kentucky was made out, the time in which it was required to be done was so short—and with all, the fact of its being prepared at all by me so unexpected—that it was impossible to say anything about the history of registration in other countries or in our own. There is yet a propriety in giving some account of the measure, at the commencement of our labors upon this subject.

Situated, as I am, in a location very unfavorable to procure extensive or exact information, I deem it still proper to collect something of the facts which my limited resources have enabled me to bring to bear upon this topic.*

It is unknown when the subject first attracted the attention of statesmen and philanthropists; but we have very conclusive proof that it was practiced at a very early day, nay it requires no great stretch of the imagination to believe that it was instituted by God himself. How else are we to account for the fact, that we have an unbroken chain of genealogy from Adam to our Saviour. That those registries were kept with great care, is clearly declared by Josephus, the Jewish historian and high priest, who, writing against Apion, and in defense of the correctness of Jewish history, says: 'For our forefathers did "not only appoint the best of these priests, and those that attended upon divine worship, for that design, [writing history,] from the beginning, but made provision that the stock of the priests should "continue unmixed and pure; for he who is a partaker of the priest-hood must propagate of a wife of the same nation, without having "regard to money or any other dignities; but he is to make a scrutiny, and take his wife's genealogy from the ancient tables, and pro-

* Here, once for all, I take occasion to acknowledge my very great indebtedness to Lemuel Shattock, Esq., and Drs. Josiah Curtis and Thomas H. Webb, of Boston; the Sanitary commission of Massachusetts; Dr. G. Emerson, of Philadelphia, and others, without making quotations from their writings.

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"cure many witnesses to it." "Again, 'if any wars break out those priests that survive them compose new tables of genealogy out of the old records, and examine the circumstances of women that remain; for still they do not admit of those that have been captives, as suspecting that they had conversation with some foreigners.' And again, 'we have the names of our high priests, from father to son, set down in our records for two thousand years.'

But that those 'records' were not confined to the priesthood, but was of more extended use—nay, of a date prior to the establishment of the priesthood—is proved by the fact, that the genealogy of our Saviour is traced back on the part of both Joseph and Mary, to David, and thence to Adam. Our Saviour, as is well known, was not in the line of the priesthood, nor even of the tribe of Levi. From the fact, that the 'generations' of Esau are given with so much particularity in the 36th chapter of Genesis, we have a right to conclude that in the family of Abraham, at last, great pains were taken to preserve a correct genealogy.

The Romans had their registries, in which were preserved with great care, the births, sexes, periods of puberty, manhood, age at death, &c, of the population. Other nations doubtless had their plans; but unfortunately, our histories of those times are taken up with the wars and the destruction of nations, rather than with the means employed to improve the social condition of the people.

In latter times, Geneva was distinguished for the establishment of registration of births, marriages, and deaths upon an improved plan. This dates back as far as 1549, more than than three hundred years, and is still continued with great care.

In all the countries on the continent of Europe, laws exist by which every birth, every marriage, and every death which takes place is recorded. These laws vary in different countries—that of France, introduced into the 'code Napoleon,' being perhaps the best. These laws require the different items of information to be furnished to the proper officer within a very few—by *code Napoleon* in three—days after the occurrence of such birth, marriage, or death. It may be proper to give the details required by these laws. The regulations at Hamburg, as communicated by Dr. Schroeder to the Massachusetts Sanitary commission, are:



"1. A certificate of a physician on the actual and natural death of any one that is to be buried, must be delivered at all the churches and chapels of the city, at the foreign religious chapels, and at the Jewish synagogue, before they will be allowed to give permission for burial. This certificate contains a formula, which must specify the name, residence, age, day of death, and disease of which the person died, and its duration. Without such certificate, no permission of burial is given in any case.

"2. No physician is permitted to give this certificate otherwise than on the most convincing signs of death, and finding no trace whatever of an unnatural cause. In case of doubt of the actual death, the physician must immediately apply all means for restoring life, and immediately inform the police officers, if the relatives refuse the required assistance. It is also made his duty to give speedy information, under heavy responsibilities, whenever he finds traces of an unnatural death.

"3. An inquest is held gratuitously on all those who have died without the treatment of a physician, or who, in case of sudden death, have not been found alive by the physician called in, either by the magistrate, surgeon, or by one of the members of the council of health, who are appointed to this office for a stated time, and whose names are duly published.

"4. In the poor houses and hospitals, this certificate is given by the resident physician. The physician of the poor of the pauper district gives it to those who enjoy the out door privileges of these institutions.

"5. In the principal hospital, a list is made up weekly, by the resident physician, of those who have died within the week, with their names, ages, and last diseases.

"6. All these certificates are collected on Mondays, Wednesdays, and Saturdays, by the messenger of the council of health, from the different presiding officers of the churches, and other proper authorities, and are immediately carried to the city physician. If he should think it necessary, on account of a deficiency in the certificate, or any other reason, to examine the corpse himself, no body can refuse him this examination, which is done gratuitously, under heavy penalties.



"7. The city physician presents an abstract of these certificates every month, and, in dangerous cases, immediately, specifying the numbers, ages, names, sexes, and causes of death of those that have died within the month. At the end of the year, an exact list of all the buried is handed into the police office by the proper authorities, and by him handed to the city physician, who, from it, prepares and publishes in the newspapers a general report.

"Every citizen and inhabitant is urged conscientiously to conform to this regulation, since, beside the advantages in a scientific point of view, it is the only means to avoid the interment of living bodies, and prevent secret murders; and the only way to discover, seasonably, contagious diseases."

The details as to the births and marriages are equally definite; and in all portions of the continent similar regulations exist.

I may turn aside a moment to notice a query which will readily present itself to our Kentucky population—"What is the use of all this particularity about dead persons? When they are dead, there is an end of the matter." To this objection, the last sentence in the above quotation is, in Europe, a sufficient answer; but in this country, we are happily, to a great extent, ignorant of the subtilty, skill, and arrangement with which deeds of murder are planned and executed. Nor can we realize how men can deliberately murder their fellow-men, for no other reason than to sell the body; much less can we understand how a man can become a member of a 'health association,' and then murder or starve his children to procure the pitiful sum which their deaths will procure from the association. Such things do occur in Europe, and the governments find it necessary to throw every safeguard in their power, around the lives of their people. It may be added, that feelings approximating those referred to above, have been observed in this country.

But to return; the details and records as above given, are universal and compulsory. In this country they would, by many, be considered unreasonable, oppressive, and tyrannical; but do the people who suffer these things feel oppressed by them? "In France, the system is deemed an individual and social benefit, and is neither evaded nor disliked. And it is also important to know, that in Geneva, in the Rhenish provinces of Prussia, and in Belgium, where the regulations were introduced when those countries were subjugated to France,

“they are tenaciously adhered to, though these countries have long since become independent, and might have returned to the forms they had previously observed ; and that in Belgium, after the last revolution in 1830, an attempt was made to restore the clerical registrars, by the parochial catholic clergy, but it was frustrated by the decided exertion of the nation, who would not consent to the change.”

In England *parochial* registration had been in use a long time ; certainly more than two hundred years ; but the imperfections of the system were so glaring, that on the 28th March, 1833, a large committee was appointed by parliament to consider the whole subject. On 15th August next ensuing, after a thorough investigation, this committee submitted the result of their labors. Their conclusions were—

- “1. That the subject is urgently important.
- “2. That it involves matters of great public and national interest, as well as individual satisfaction, and rights and claims to property ; and deserves the attention of the humblest artizan as well as of the most philosophical and statesmanlike inquirer.
- “3. That the existing law is imperfect and unjust, and requires not only partial amendment, but real fundamental reform.
- “4. That great trouble, vast expense, utter uncertainty, capricious changes, and local and general evils exist, while no means are supplied to obtain the information other countries possess and justly value, as to the state of disease, the operation of moral and physical causes on the health of the people, the progress of the population, and other matters, on which accurate knowledge can scarcely be too highly appreciated, or too intensely pursued.”

In consequence of the information contained in this report, “an act for the Registration of Births, Marriages, and Deaths in England and Wales” was passed June 6, 1836. This act was brought into parliament by Lord John Russell, the present Prime Minister of England, and warmly supported by Sir Robert Peel, Dr. Bowering, Lord Morpeth, and other distinguished members of parliament.

Under the operation of this act, England and Wales have been divided into 11 divisions, 324 districts, and numerous sub-districts, in which are appointed registrars and superintendent registrars for recording births, marriages, and deaths. The whole are under the superintendence of a central officer in London, denominated the Regis-



trar General. London forms the first division, and is divided into 31 districts. The district registrars enter every birth, marriage, and death that occurs in their respective districts; and, every Saturday evening, copies of all the records, made during the preceding week, are forwarded to the Registrar General on Monday. These are digested the same day, and published on Tuesday afternoon. Notwithstanding the great size of the metropolis, containing more than twice as many inhabitants as the State of Kentucky, the returns are made with so much regularity that it seldom happens that a single one is missing. Annual reports, embracing the whole of England and Wales, are made by the Registrar General, accompanied by comments and suggestions, which contain a vast amount of the most valuable information respecting the life, the health, the morals, and the general welfare of man.

REGISTRATION IN THE UNITED STATES.

It appears that immediately after the settlement of New England. laws were enacted requiring a registration of births, marriages, and deaths after the manner of the parochial registers of England, which doubtless the first settlers brought with them. So early as September, 1639, the colony of Massachusetts Bay enacted, in substance, that all parents, masters of servants, executors, administrators, &c., shall, within one month, return to the town clerk the day upon which any birth or death took place of a person pertaining to them, and that every newly married man shall, in like manner, bring the certificate of his marriage. The clerk was to make out and keep a list of all such reports, and yearly deliver to the recorder of the court of the jurisdiction where they live, a true transcript thereof. A penalty was attached to persons failing to make returns, and to the clerk for omitting his duty.

In 1646 the Plymouth colony passed regulations very similar to those of Massachusetts Bay; and when the two colonies were united in 1692, the laws were continued.

Among the first legislative proceedings in the colony of Rhode Island, was a law regulating marriages, passed in May, 1647. Amendments to this act were passed in 1655, '56, '62, and '65; from which it would seem that the preventing clandestine and irregular marriages engaged much of the attention of the colony. It does not appear



that any law upon the subject of births and deaths, passed about this time, is in existence; yet in the preamble to an act passed May 3d, 1698 a distinct reference is made to prior laws upon all three heads—births, marriages, and deaths.

It is most probable that all the New England colonies had similar regulations, but my means of information do not enable me to give the particulars. It appears that these laws were very tolerably observed for a long time; but from some causes unknown, probably because there was no central head to digest and render available to general use, the information thus collected, the laws became less and less observed, and finally became a dead letter.

After the organization of the registration laws in England, in 1836, Massachusetts adopted the provisions of the English law to considerable extent in her acts of 1842, 1844, and 1849, and is now reaping the fruits of an excellent organization. In turn, Massachusetts has become the *punctum saliens* of registration laws in America. New York passed a law upon the subject in 1847; New Jersey in 1848; Connecticut in 1848; New Hampshire in 1849; Rhode Island in 1850; Pennsylvania in 1851; Virginia in 1851; and South Carolina in 1853. In several other states, applications for registration laws have been made.

It is a little singular that, although almost every intelligent person, upon having the subject presented to his mind, and very partially explained, readily gives his assent to the importance of the measure, yet legislatures generally are very slow to pass the desired laws. Very frequently, too, instead of passing an act as desired by those who apply for it, and who, from their knowledge of the subject and the pains which they have taken to prepare their plans, ought to be presumed to be judges of what is required, the legislature so changes and modifies the bill as to render it useless. Thus very commonly applications have been made for several years in succession, before a bill could be gotten through the legislature. In Pennsylvania, after several years trial, a bill was passed which became a law without the signature of the Governor. Although the legislature appropriated \$4,000 for carrying it into effect, there was an effort at the succeeding session of the legislature to repeal it, and it is yet a dead letter.

In Rhode Island, after several years application, a law was passed in 1850, but so different from what its friends desired, that, as they



predicted, no return was made under it. It was amended in 1852. For 1853, the first report was made, which gave returns from 16 out of 31 'towns' which compose the state; and partial returns from 12 more. In South Carolina, after repeated trials, a law was passed, under which about half the state made returns. From the other half—the 'lower district'—no returns were made. It is recorded, too, that many of the citizens absolutely refused to give the statements of births, &c. The friends of the measure are now striving to have the law amended so as to give more fully, the desired information.

REGISTRATION IN KENTUCKY.

When our state government was organized, we adopted the law of Virginia as to marriages. By this law parties desiring to marry were required to obtain a 'license' from the county court clerk. The clerk was forbidden under penalty, to issue a license for what would be an incestuous marriage, as also for a marriage between a white and a colored person. He was required to take from the groom a bond, with security, that there was no legal impediment in the way of the proposed marriage. To enable a minister or a magistrate to solemnize marriages, he was required to have authority from the county court. After solemnizing a marriage, he was bound to return to the clerk the license for the marriage, and his own certificate stating the time at which the marriage was solemnized by him. These the clerk was bound to keep in such manner that they could be readily found when required.

This law, like those in the New England states, was very slovenly executed. In some counties, the only evidence of a marriage was that a bond had been given upon which a license had been granted; but there was no record that the marriage had ever taken place. Even in the best counties in the state, there was no return to show that from one-third to one-half of parties, to whom licenses had been granted, had been actually married.

In 1821, our state passed a law of great importance, though not precisely in the line of our immediate subject; I mean one which required the registry of children between 4 and 14 years—since amended to include those between 6 and 18. In 1851 she required an enumeration of children who are deaf and dumb, and in 1852 of those who are blind.



At the session of 1849–50, application for a law requiring the registry of births, marriages, and deaths was made, but unsuccessfully. It was renewed to that of 1851–51, when it passed by an unanimous vote of the Senate, and by a very large vote in the House of Representatives.

This act, a copy of which is subjoined, does not attempt, as is done in some of the states, to prevent letters of administration from being granted until the death of the testator has been recorded; nor does it lay children, whose birth have not been registered, under any disability as to public schools or otherwise. It is in the words following:

CHAPTER LXXXII.—REGISTRATION OF BIRTHS, DEATHS, AND MARRIAGES.—
Revised Statutes, pages 546 to 548, inclusive.

§ 1. That it shall be the duty of all clergymen or other persons, who shall hereafter celebrate or perform the marriage ceremony within this commonwealth, to keep a registry of all marriages celebrated by them, showing the names, ages, residence, and place of birth of the persons married, whether they were single or widowed, and the time of the marriage.

§ 2. It shall be the duty of all physicians, surgeons, and widwives, to keep a registry of all births and deaths at which they have professionally attended, showing, in cases of births, the time and place of birth, name of the father, and maiden name of the mother, and their residence, sex, and color of the child, together with its name, if it shall receive one, and whether it was born alive or dead; and showing, in cases of death, the time, place, and cause of death, the name, age, sex, color, and condition, (whether single, married, or widowed,) name and surname of parents, occupation, residence, and place of birth of the deceased: *Provided*, that in case of a birth of a slave, the name of the owner shall be given in place of the names of the parents, and, in case of the death of a slave, the owner's name may be given in place of the condition, occupation, and residence: *And, provided further*, that when two or more physicians, surgeons, or widwives may have attended professionally at any birth or death, that physician, surgeon, or midwife who is oldest in attendance, shall make the registry.

§ 3. It shall be the duty of clergymen, physicians, &c., above named, to deposit in the county clerk's office of the counties in which such births, &c., occur, on or before the tenth day of January in every year, the said registry, or a copy thereof, embracing the period of one year, ending on the thirty-first day of December last preceding the time of deposit, and the clerk shall deliver copies of the same to the assessor.

§ 4. It shall be the duty of the assessors, while making their lists of taxable property, to ascertain and record, in a list separate from

the list of taxable property, all the births, marriages, and deaths which shall have occurred within their respective counties in the twelve months ending on the thirty-first day of December last preceding the time of assessment, with all the items of time, place, &c., herein directed to be inserted in the registries above named; and they shall make strict inquiry of all heads of families, and shall use the registries of clergymen, &c., above named, in order to obtain correctly the information herein required. They shall return said lists of births, &c., with the registries of clergymen, &c., aforesaid, to the clerks of the county courts at the same time they return their lists of taxable property; and the clerks shall copy said lists of births, &c., and transmit the copies to the auditor of public accounts with the list of taxable property. The clerks shall be paid at the same rates they are paid for copying the list of taxable property. The assessor shall be allowed two cents for each birth, marriage, or death, recorded as herein directed, to be paid in the same manner as for making the lists of taxable property: *Provided*, that it shall be lawful for any assessor to record, separately, the time, place, &c., of any birth, marriage, or death which may have occurred prior to the time which the list then being made embraces, or which may have occurred within* this commonwealth; for every entry so made, the party causing it to be done shall pay the assessor two cents.

§ 5. It shall be the duty of the auditor to make, from all the lists of births, marriages, and deaths so transmitted to him, tabular statements showing, in a condensed form, the information herein required to be preserved, keeping the statistics of each county separate, and to cause five hundred copies of the same to be printed in pamphlet form, on or before the first day of January in every year; to transmit not more than five nor less than two copies to each county court clerk's office in this commonwealth, one of which shall be forever carefully kept in such office, and the remainder distributed for the use of the citizens of their respective counties. He shall cause to be printed suitable blanks for the use of assessors, clergymen, physicians, &c., with separate columns for each of the items of information herein required, and send a sufficient number of said blanks to the clerks of each county court for distribution. He shall annex to said blanks such instructions as he may deem necessary to secure the faithful execution of this act.

§ 6. To enable the assessors to obtain full and correct information touching the facts herein required to be ascertained, they shall have full power to swear and interrogate any person in their respective counties for that purpose; and it shall be the duty of all such persons, when thereto required by the assessor, with or without oath, to give

*This word should be "without."

him, fully and truly, all the information he or she may possess touching any of said facts.

§ 7. The several county court clerks shall forever carefully preserve the lists of births, &c., and the registries of clergymen, &c., herein required to be returned to them for the use of the public.

§ 8. The said lists of births, marriages, and deaths, returned to the clerks of the county courts by the assessors, as also the original tabular record herein required to be made and kept by the auditor, or a duly certified copy of any birth, marriage, or death from either of them, given and certified by the keeper of such records, shall hereafter be admitted and received, in all courts in this commonwealth, as *prima facie* evidence of any such birth, marriage, or death therein recorded or so certified.

§ 9. Any person failing to discharge and perform any of the acts or duties herein imposed and requited to be done, shall, for every such failure, be fined in a sum not less than five nor more than twenty dollars, to be recovered by warrant before a justice of the peace, or by presentment by the grand jury.

The returns under this act have, altogether, been highly encouraging—comparing advantageously with those of any state at the commencement. Yet experience has shown that it might be amended. In the first place, it places the making out the annual reports, and all duties pertaining to the proper execution of the law, upon the Auditor of Public Accounts. This is believed to be an improvement upon the laws of other states where, with the exception of South Carolina, this duty devolves upon the Secretary of State. Common sense would seem to require that an officer should be presumed capable of discharging all duties devolved upon him; which presumption in this case, can scarcely attach to a Secretary of State or an Auditor. Hence the Secretary of State or the Auditor has done by proxy, what the law required him to do. South Carolina acted wisely, therefore, in following the example of England, and creating an office, the incumbent of which should be appointed in reference to the duties which he had to perform. Our law might be so amended as to create the office of registrar of births, marriages, and deaths, devolving upon the registrar those duties at present imposed on the Auditor.

Again, the clerks of the several county courts should be required to make out two indexes, embracing all the white persons who shall have been returned as born, married, or dead, one of which he shall attach to the assessor's return, kept in his office, and the other to the

copy sent to the auditor (or registrar if such should be created.*) These, with some additional compensation to the assessors, as mentioned in the body of the report, (provided the physicians, clergymen, and people can be brought to co-operate,) will soon give our registration system great practical utility.

*This is necessary to enable parties interested to find the record of any birth, marriage, or death which they might seek for.



